



Staff Report

RECOMMENDATION APPOINTING COMMISSION SUBCOMMITTEE FOR MCDUGAL PARK PUBLIC ACCESS

Honorable Chair and Commission Members:

Summary

At the December 5, 2007 Parks & Recreation Commission meeting Belmont resident Robert Mayer expressed his concern and frustration over the lack of public access to McDougal Park for local residents. He identified himself as a member of Neighborhoods First, which has been working with Charles Armstrong School to work out a more harmonious relationship with the neighborhood and to open up access to McDougal Park. Mr. Mayer subsequently sent a correspondence (Attachment A) to the Parks & Recreation Commission requesting discussion of the lack of public access to McDougal Park, due to an easement agreement granted to the City of Belmont and Charles Armstrong School. Mr. Mayer raised other concerns related to McDougal Park referencing the 1992 Parks & Open Space Master Plan (Master Plan). As the Master Plan is in the process of being updated, those concerns can be addressed as part of the Master Plan update process. As a response to the correspondence from Mr. Mayer, McDougal Park was designated as a Future Agenda item on the April 2, 2008 Parks & Recreation Commission Agenda. Staff recommends the appointment of a Commission Subcommittee to review the original easement agreement and make a recommendation to the Commission.

Background

Prior to 1985, the park was owned by the Belmont School District and existed as the play field for McDougal Elementary School, in a conventional grammar school campus layout. The field was separated from the developed portion of the campus in 1985, after the District leased the school buildings and surrounding grounds to Charles Armstrong School, and sold the play field to the City (Reso 6072, 03-26-85).

The field directly abuts the school site along its western boundary, but has no direct frontage along any public street. In order to allow public use of the field as a park, an access easement across the school site was created and recorded with the District's sale of the field to the City in 1985.¹ The easement's recorded legal description includes, 1) a driveway of approximately 20

¹ On June XX, 1985, the City Council adopted Resolution No. 5911 in which it indicated its interest in purchasing the McDougal Elementary School play fields for a public park.

feet in width from Solana Drive along the north edge of the school site and, 2) the lower parking area to which the driveway leads.

The purchase agreement recorded with the sale describes the rights granted to the City by the easement, as follows:

“3. a) ...a non-exclusive easement for ingress and egress and public access to the playing fields on the McDougal School site as described in Exhibit G attached hereto. Said easement shall provide that it can be used by City only after 4:00 p.m., Monday through Fridays, during the school year of the Armstrong School and after 12:30 p.m. during the Armstrong School Summer Session; provided, however, that there shall be no limitation on the use thereof by City maintenance personnel and maintenance vehicles and equipment for the purpose of servicing the playing field. Should the Armstrong School or its assigns or successor in interest cease to be a tenant and fail to exercise this option or purchase the property, the above limitations or the use of the easement shall terminate.

“b) The parties hereto understand and agree that the School District has leased part of the McDougal School site to the Armstrong School. The provision of the lease gives to the school the right to the exclusive use of the playing fields between 8 a.m. and 4:00 p.m. during the regular school year and prior to 12:30 p.m. during the summer session. In addition to the lease, the Armstrong School has an option to buy the property it is leasing. It is agreed that in the event the Armstrong School or its successor or assigns does not exercise its option to purchase the property and it ceases to be a tenant of the School District, the right of the Armstrong School or its successors and assigns to the exclusive use of the playing fields shall cease and terminate. The City agrees that in the event the school site is leased or sold to another private or public school, the City will negotiate hours of playfield use by the students of such school during school hours. The City will not unreasonably withhold the use of the fields by the students during school hours.”

In order for the easement record to be as complete and unambiguous as possible, a complementary set of rights regarding the play field and access easement was granted to Armstrong School in 1984 when they leased the McDougal School site. A “Reciprocal Easement Agreement for Access, Parking and Exclusive Use” was executed and recorded by the School District, granting to Armstrong School:

“a perpetual exclusive easement for ingress, egress and use of, over, upon, through and across that portion of the District property described in Exhibit ‘E’ attached here to and incorporate by reference herein as the ‘playing fields’”.

The reciprocal agreement also reserved the access driveway and lower parking area on the school site to the District (which it later deeded to the City with the sale of the fields).

In summary, with the sale of the school to Armstrong School and of the playing fields to the City, a new public park was created which could only be accessed across the school campus. Based on the easements recorded with the two sales, the park might best be described as a “part-time” public park since access is permitted only, as follows:

Monday through Friday during the Armstrong School regular session:

- Before 8 a.m. and after 4 p.m.

Monday through Friday during the Armstrong School summer session:

- Before 8 a.m. and after 12:30 p.m.

Saturday and Sunday, throughout the year:

- No limit

The remaining time, the fields are part of the Charles Armstrong School campus. The following chart provides a summary of the time limits, including the Municipal Code time limits for all City parks.²:

Daily Time Intervals	M–F Regular Session	M–F Summer Session	Weekends
Midnight to sunrise	Closed	Closed	Closed
Sunrise to 8 a.m.	Public Use	Public Use	Public Use
8 a.m. to 12:30 p.m.	School Use Only	School Use Only	
12:30 p.m. to 4 p.m.		Public Use	
4 p.m. to sunset	Public Use	Public Use	
Sunset to midnight	Closed	Closed	Closed

Representatives at Charles Armstrong School indicate that they have allowed public access outside the limits of the easement, including additional campus parking outside the easement area, as well as access to the bathrooms within the school. However, such permission is at the discretion of Charles Armstrong School and not provided by the specific rights granted to the City.

Discussion

The McDougal Park easement agreement impacts several parties which include the Charles Armstrong School, local youth sports organizations, area residents and the City. The McDougal Park Subcommittee will review the easement agreement as it pertains to all parties involved, and identify potential alternatives to the existing agreement regarding public access.

² Section 16-33 of the Belmont Municipal code states that all public parks are, “...closed to the public between one-half hour after sunset and one-half hour before sunrise...”

General Plan/Vision Statement

Vision Statement - Distinctive Community Character

- *“Our strong sense of community and enjoyment of the town’s assets and activities deepen as we become better informed and connected”.*

Vision Statement - Thriving Culture

- *“Our playgrounds and athletic fields are of high quality and in high gear”.*

Fiscal Impact

No Fiscal Impact

Public Contact

Posting of Park & Recreation Commission Agenda.

Recommendation

Staff recommends appointing a Parks & Recreation Commission Subcommittee for McDougal Park public access to review of the original easement agreement and to make a recommendation to the Commission.

Alternatives

1. Take no action.
2. Appoint a Commission Subcommittee for McDougal Park Public Access.

Attachments

- A. Robert Mayer correspondence.

Respectfully submitted,

George Brunson
Interim Co-Director Parks & Recreation